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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

19 NICOLE GREENE, an individual,
20
21 Plaintiff,

22 vs.

23 BENJAMIN WOOD, an individual; and
24 FRONTIER AIRLINES, INC., a Foreign
25 Corporation; DOES 1 through 20,
26 inclusive; ROE CORPORATIONS, 1
27 through 20, inclusive;
28 Defendants.

Case No.

(District Court Case No.: A-20-809599-C)

**DEFENDANTS' NOTICE TO FEDERAL
COURT OF REMOVAL OF CIVIL ACTION
FROM STATE COURT**

**[DIVERSITY UNDER 28 U.S.C. §§ 1332, 1441,
AND 1446]**

**TO THE CLERK FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
NEVADA:**

PLEASE TAKE NOTICE that Defendants FRONTIER AIRLINES, INC., and BENJAMIN WOOD (collectively “Defendants”) hereby jointly remove the above-entitled action from the Eighth Judicial District Court in and for the County of Clark, State of Nevada to the United States District Court for the District of Nevada pursuant to 28 U.S.C. §§ 1332, 1441(b), and 1446. This removal is based upon diversity jurisdiction and is timely. A true and correct copy of the Notice to State Court of Removal of Action to Federal Court is attached hereto and incorporated herein as **Exhibit A**.

In support of this Notice of Removal, Defendant states to the Court as follows:

1. On January 31, 2020, an action was commenced in the Eighth Judicial District Court of Clark County, entitled NICOLE GREENE, an individual, vs. BENJAMIN WOOD, an individual; and FRONTIER AIRLINES, INC., a Foreign Corporation; DOES 1 through 20, inclusive; and ROE CORPORATIONS 1 through 20, inclusive. A true and correct copy of the original Complaint is attached hereto as **Exhibit B**. All copies of the papers underlying this action in state court are attached as **Exhibit C**.

2. On April 7, 2020, Defendant Frontier Airlines, Inc.’s registered agent was served with a copy of Plaintiff’s Complaint and Summons. True and correct copies of the Notice of Service reflecting service upon Defendant is attached hereto as **Exhibit D**. Accordingly, this Notice of Removal is timely.

3. On Friday, May 1, 2020, Defendant Wood was sub-served with the Complaint, and timely joins in this Notice of Removal. The copy of the Affidavit of Service has not been filed yet.

4. Plaintiff’s Complaint asserts five causes of action: 1) assault against Defendant Wood; 2) battery against Defendant Wood; 3) intentional infliction of mental and emotional distress against Defendant Wood; 4) intentional infliction of mental and emotional distress against Defendant Frontier Airlines; and 5) negligent hiring and supervision against Defendant Frontier Airlines.

5. This action is a civil action which may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1332 and 1441(b), in that it is a civil action between citizens of different states, and the matter in controversy exceeds \$75,000, exclusive of interest and costs.

6. Plaintiff is an individual who resides in Clark County, Nevada. *See Exhibit B, ¶ 1.*

7. Defendant Frontier Airlines is a “foreign Corporation” that is a resident of Denver,

1 Colorado.¹ See **Exhibit B** at ¶ 3. Defendant Frontier Airlines is therefore diverse from Plaintiff.

2 8. Defendant Wood is a resident of Oklahoma City, Oklahoma, and not Philadelphia,
3 Pennsylvania as reflected in the Complaint. See **Exhibit B** at ¶ 2. Residence is prima facie evidence
4 of domicile and therefore citizenship. See *Mondragon v. Capital One Auto Fin.*, 736 F.3d 880, 885-
5 86 (9th Cir. 2013). Defendant Wood is therefore diverse from Plaintiff.

6 9. Plaintiff's Complaint does not specify the precise amount she seeks to recover in this
7 action. Where removal is based on diversity of citizenship and the initial pleading seeks a money
8 judgment but does not demand a specific sum, "the notice of removal may assert the amount in
9 controversy," 28 U.S.C. § 1446(c)(2), and a removing defendant "need include only a plausible
10 allegation that the amount in controversy exceeds the jurisdictional threshold." *Dart Cherokee Basin*
11 *Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014). Here, the amount in controversy exceeds \$75,000
12 based on the following: Plaintiff's Complaint seeks (1) "an award of compensatory damages in her
13 favor and against the Defendant in an amount in excess of \$15,000;" (2) "exemplary and punitive
14 damages in the amount in excess of \$15,000 should be awarded to punish the Defendant;" (3)
15 reasonable award of attorneys' fees and costs of suit incurred herein;" (4) "[f]or interest thereon at
16 the legal rate until paid in full;" and (5) any other relief awarded by the Court. See **Exhibit B** at 10:12-
17 15. Plaintiff is further seeking "in excess of Fifteen Thousand Dollars (\$15,000)" for all five of her
18 causes of action, totaling an excess of \$75,000. *Id.* at ¶ 37 (assault claim), ¶ 44 (battery claim), ¶ 52
19 (infliction of mental and emotional distress claim against Defendant Wood), ¶ 62 (infliction of mental
20 and emotional distress claim against Defendant Frontier); and ¶ 67 (negligent hiring and supervision).
21 Thus, at a minimum, the total amount Plaintiff seeks through this action is in excess of \$75,000.00
22 based on the face of the Complaint.

23 10. The amount in controversy is not limited to damages incurred prior to removal, but is

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25 ¹ A business entity search on the Nevada Secretary of State's website confirms that Defendant's place
26 of incorporation is Colorado, which is also its principal place of business. See **Exhibit E**. Defendant
27 requests that the Court take judicial notice of the public records from the Nevada Secretary of State
28 website indicating it is a domestic corporation. See *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992,
998-99 (9th Cir. 2010) (taking judicial notice of official information posted on a governmental
website, the accuracy of which was undisputed).

1 determined by the complaint operative at the time of removal and encompasses all relief a court may
 2 grant on the complaint if the plaintiff prevails. *See Chavez v. JPMorgan Chase & Co.*, 888 F3.d 413,
 3 417 (9th Cir. 2018). Thus, Plaintiff's Complaint and the damages she seeks establish the amount in
 4 controversy requirement.

5 11. Venue is proper in this Court as this is the Court for the district and division embracing
 6 the place where the action is pending in state court, in accordance with 28 U.S.C. §§108 and 1441(a).

7 WHEREFORE, Defendants Frontier and Benjamin Wood pray that the above-referenced
 8 action now pending against it in the Eighth Judicial District Court in and for the County of Clark, State
 9 of Nevada, be removed therefrom to this Court.

10 Dated: May 6, 2020

11 Respectfully submitted,

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 14 _____
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 16 AMY THOMPSON, ESQ.
 17 KELSEY E. STEGALL, ESQ.
 18 LITTLER MENDELSON, P.C.

19 Attorneys for Defendant
 20 FRONTIER AIRLINES, INC.

21 _____
 22 /s/ Ross C. Goodman, Esq.
 23 ROSS C. GOODMAN, ESQ. (7722)
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 25 520 S. Fourth Street, Second Floor
 26 Las Vegas, Nevada 89101

27 Attorney for Defendant Benjamin Wood
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PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169. On May 6, 2020, I served the within document(s):

NOTICE TO FEDERAL COURT OF REMOVAL OF CIVIL ACTION FROM STATE COURT

☒ By **CM/ECF Filing** – Pursuant to FRCP 5(b)(3) and LR II 5-1, the above-referenced document was electronically filed and served upon the parties listed below through the Court's Case Management and Electronic Case Filing (CM/ECF) system:

Patrick W. Kang, Esq.
Kyle R. Tatum, Esq.
Kang & Associates, PLLC
6480 West Spring Mountain Road
Suite 1
Las Vegas, NV 89146

Attorney for Plaintiff
Nicole Greene

I am readily familiar with the firm's practice of collection and processing correspondence for mailing and for shipping via overnight delivery service. Under that practice it would be deposited with the U.S. Postal Service or if an overnight delivery service shipment, deposited in an overnight delivery service pick-up box or office on the same day with postage or fees thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 6, 2020, at Las Vegas,

/s/ Maribel Rodriguez
Maribel Rodriguez